

## Securities and Exchange Commission

## § 200.21

### § 200.21 The General Counsel.

(a) The General Counsel is the chief legal officer of the Commission. He or she is responsible for the representation of the Commission in judicial proceedings in which it is involved as a party or as *amicus curiae*, for directing and supervising all civil litigation involving the Commission in the United States District Courts, except for law enforcement actions filed on behalf of the Commission, for directing and supervising the Commission's responsibilities under the Bankruptcy Code and all related litigation, and for representing the Commission in all cases in appellate courts. The General Counsel is responsible for the review of cases which the Division of Enforcement recommends be referred to the Department of Justice with a recommendation for criminal prosecution. In addition, he or she is responsible for advising the Commission at its request or at the request of any division director or office head, or on his or her own motion, with respect to interpretations involving questions of law; for the conduct of administrative proceedings relating to the disqualification of lawyers from practice before the Commission; for conducting preliminary investigations, as described in 17 CFR 202.5(a), into potential violations of 17 CFR 201.102(e) by attorneys; for the preparation of the Commission comments to the Congress on pending legislation; and for the drafting, in conjunction with appropriate divisions and offices, of legislative proposals to be sponsored by the Commission. The General Counsel is also responsible for the review and clearance of the form and content of articles, treatises, and prepared speeches and addresses by members of the staff relating to the Commission or to the statutes and rules administered by the Commission. The General Counsel also is responsible for coordinating and reviewing the interpretive positions of the various divisions and offices. In addition, he or she is responsible for appropriate disposition of all Freedom of Information Act and Privacy Act appeals pursuant to the authority delegated in § 200.30-14 of this chapter, and is the Commission's advisor with respect to legal problems arising under the Freedom of Informa-

tion Act, the Privacy Act, the Federal Reports Act, the Federal Advisory Committee Act, the Civil Service laws and regulations, the statutes and rules applicable to the Commission's procurement, contracting, fiscal and related administrative activities, and other statutes and regulations of a similar nature applicable to a number of Government agencies.

(b) The General Counsel is also responsible for assisting members of the Commission in the preparation of the opinions of the Commission, and to the Commission for the preparation of opinions and decisions on motions and certifications of questions and rulings by administrative law judges in the course of administrative law proceedings, except (1) in cases where, pursuant to a waiver by the parties of separation of function requirements, another Division or Office of the Commission's staff undertakes to prepare an opinion or decision, in which cases the General Counsel may assist in such preparation, and (2) with respect to administrative proceedings against lawyers under Rule 102(e) of the Commission's Rules of Practice (§ 201.102(e) of this chapter) or other cases in which the Chairman or the General Counsel has determined that separation of function requirements or other circumstances would make inappropriate the exercise of such functions by the General Counsel. In the cases described in clause (2), the Executive Assistant to the Chairman exercises such functions. The General Counsel deals with general problems arising under the Administrative Procedure Act, including the revision or adoption of rules of practice. The General Counsel is also responsible for the exercise of such review functions with respect to adjudicatory matters as are delegated to him or her by the Commission pursuant to 101 Stat. 1254 (15 U.S.C. 78d-1, 78d-2) or as may be otherwise delegated or assigned to him or her.

(c) The General Counsel also is responsible to the Commission for the administration of the Government in the Sunshine Act for publicly certifying, pursuant to § 200.406, that, in his or her

## § 200.21a

opinion, particular Commission meetings may properly be closed to the public. In the absence of the General Counsel, the Solicitor to the Commission shall be deemed the General Counsel for purposes of § 200.406. In the absence of the General Counsel and the Solicitor, the most senior Associate General Counsel available shall be deemed the General Counsel for purposes of § 200.406. In the absence of the General Counsel, the Solicitor, and every Associate General Counsel, the most senior Assistant General Counsel available shall be deemed the General Counsel for purposes of § 200.406. In the absence of the General Counsel, the Solicitor, every Associate General Counsel and every Assistant General Counsel, such attorneys as the General Counsel may designate (in such order of succession as the General Counsel directs) shall exercise the responsibilities imposed by § 200.406.

[43 FR 13376, Mar. 30, 1978, as amended at 47 FR 26821, June 22, 1982; 47 FR 37077, Aug. 25, 1982; 49 FR 12685, Mar. 30, 1984; 49 FR 13866, Apr. 9, 1984; 50 FR 12240, Mar. 28, 1985; 54 FR 18100, Apr. 27, 1989; 54 FR 24331, June 7, 1989; 60 FR 14626, Mar. 20, 1995; 69 FR 13174, Mar. 19, 2004; 71 FR 27385, May 11, 2006; 76 FR 60371, 60372, Sept. 29, 2011; 76 FR 71449, Nov. 18, 2011]

### § 200.21a The Ethics Counsel.

(a) The Ethics Counsel is responsible for administering the Commission's Ethics Program and for interpreting subpart M of this part and 5 CFR part 2635. He or she serves as Counselor to the Commission and its staff with regard to ethical and conflicts of interest questions and acts as the Commission's liaison on such matters with the Office of Administrative and Personnel Management, the Office of the Inspector General and the Department of Justice. When appropriate and subject to the authority of, and in consultation with, the Inspector General, the Ethics Counsel shall inquire into alleged violations of subparts C, F, and M of this part, and 5 CFR part 2635.

(b) The Ethics Counsel shall:

(1) Receive and review allegations of misconduct by a Commission employee.

(2) Refer matters involving management questions to Division Directors, Office Heads, or Regional Directors,

## 17 CFR Ch. II (4–1–13 Edition)

and matters involving alleged or apparent employee misconduct to the Office of the Inspector General, except for matters involving alleged professional misconduct ultimately referable to state professional boards or societies.

(3) Refer complaints that appear to involve a violation of Federal criminal statutes, and do not appear to be frivolous, to the Inspector General for referral to the Department of Justice under 28 U.S.C. 535.

(4) Act as liaison with the Office of the Inspector General on matters that the Ethics Counsel has referred to that Office, and with state or local authorities on matters that, on occasion, the Ethics Counsel may refer to them.

(5) Arrange for the review of proposed publications and prepared speeches under § 200.735–4(e).

(6) Provide advice, counseling, interpretations, and opinions with respect to subparts C, F, and M of this part, and 5 CFR part 2635.

(7) Oversee investigations and refer findings of professional misconduct to state professional boards or societies.

(8) Draft rules and regulations as necessary to implement the Commission's Ethics Program.

[60 FR 14626, Mar. 20, 1995, as amended at 73 FR 32224, June 5, 2008; 76 FR 71449, Nov. 18, 2011]

### § 200.22 The Chief Accountant.

The Chief Accountant of the Commission is the principal adviser to the Commission on, and is responsible to the Commission for, all accounting and auditing matters arising in the administration of the federal securities laws. The Chief Accountant oversees the accounting profession's standard-setting and self-regulatory organizations, develops or supervises the development of accounting and auditing rules, regulations, opinions and policy, and interprets Commission accounting policy and positions. The Chief Accountant is responsible for recommending the institution of administrative and disciplinary proceedings relating to the disqualification of accountants to practice before the Commission. The Chief Accountant supervises the procedures